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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,668	10/12/2006	Peter John Houzego	PC32750	4567
28523	7590	09/14/2010		
PFIZER INC. PATENT DEPARTMENT Bld 114 M/S 9114 EASTERN POINT ROAD GROTON, CT 06340			EXAMINER MAUST, TIMOTHY LEWIS	
			ART UNIT 3751	PAPER NUMBER
			NOTIFICATION DATE 09/14/2010	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

~IPGSGro@pfizer.com

Office Action Summary	Application No. 10/581,668	Applicant(s) HOUZEGO, PETER JOHN	
	Examiner Timothy L. Maust	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 August 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-13 and 15-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-13, 15-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/17/10 has been entered.

Claims 10 and 14 have been canceled by amendment.

Claims 1-9, 11-13 and 15-21 remain pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5, 7, 16, 17 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over T. E. Aronson (3306323) in view of Ede et al. (7051771).

Regarding claims 1, 17 and 21, the Aronson reference discloses an apparatus (see Figure 2) for filling with powder a container (34) having an open end, the apparatus including: a support (37A) for the container; a hopper (42) having an outlet (see col. 6, lines 45 and 46) and being selectively moveable relative to the support to position the

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outlet above the open end of a supported container (see col. 7, lines 67-75); a dispenser (i.e., shaker plate 46) for mechanically agitating the hopper **and** container so as to cause powder to be transferred from the hopper to the container (see col. 8, lines 47-61); and a controller (i.e., a motor is energized; see col. 8, lines 2 and 3) for operating the dispenser by at least a predetermined amount sufficient to ensure that powder in the container reaches a predetermined density (see col. 4, lines 24-29). The Aronson reference doesn't disclose tapping of the hopper. However, the Ede et al. reference discloses another powder dispensing apparatus wherein the powder is aided through the apparatus by tapping or vibrating to ensure full flow of powder (see col. 9, lines 20-28). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Wahl device to have a tapping mechanism in view of the teachings of the Ede et al. reference, which teaches that tapping or vibrating powder dispensers is well known and conventional in the art to ensure a full flow of powder.

For the following claims, refer to Aronson

Regarding claims 2, 3 and 5, the predetermined volume depends on the size of the container, since the container is filled with a desired or maximum capacity (col. 4, lines 28 and 29).

Regarding claim 7, the outlet of the hopper is an orifice. Further, in Figure 3, a baffle (143) is shown.

Regarding claim 16, see column 6, lines 50-63.

Claims 8, 9, 12, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over T. E. Aronson in view of Ede et al.

Regarding claims 8, 9, 12, 13 and 15, the Aronson reference discloses the invention as modified by the Ede et al. (discussed supra), but doesn't disclose an orifice being 0.5mm, tapping 50-500 times, acceleration of approximately 1000 G and vibrating at a frequency between 100 Hz and 1 kHz. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the above operational sizes and ranges on the Aronson device, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105

Claims 1-7 and 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over E. A. Wahl in view of Ede et al. (7051771).

Regarding claims 1, 20 and 21, the Wahl reference discloses a method of filling with powder (33) a plurality of containers (21) having an open end, the method including: positioning an outlet of a hopper (20) containing powder (33) above the open end of the containers on support (10); mechanically agitating the hopper so as to cause powder to be transferred from the hopper to the container; and mechanically agitating the container; wherein the steps of mechanically agitating are conducted by at least a predetermined amount sufficient to ensure that the container is filled with powder at a

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predetermined density (see col. 6, lines 27 – 43). Wahl doesn't disclose the mechanical agitation being in the form of tapping. However, the Ede et al. reference discloses another powder dispensing apparatus wherein the powder is aided through the apparatus by tapping or vibrating to ensure full flow of powder (see col. 9, lines 20-28). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Wahl device to have a tapping mechanism in view of the teachings of the Ede et al. reference, which teaches that tapping or vibrating powder dispensers is well known and conventional in the art to ensure a full flow of powder.

For the following claims, refer to Wahl et al.

Regarding claims 2 and 3, see column 6, lines 40-43.

Regarding claim 4-6, the outlet of hopper is adjustable to vary the filling volume of container (21); see col. 8, lines 57-60.

Regarding claim 7, the outlet of the hopper is an orifice.

Regarding claims 17 and 19, the hopper and container, as one super structure, are vibrated at the same time via electro-magnetic vibrator 12, which is cammed (see Figures 24-26).

Regarding claim 16, a powder tight seal is shown in Figure 20.

Regarding claim 18, for density variations see column 15, lines 54-56.

Claims 8, 9, 12, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over E. A. Wahl in view of Ede et al.

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Regarding claims 8, 9, 12, 13 and 15, the Wahl reference discloses the invention as modified by the Ede et al. (discussed supra), but doesn't disclose an orifice being 0.5mm, tapping 50-500 times, acceleration of approximately 1000 G and vibrating at a frequency between 100 Hz and 1 kHz. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the above operational sizes and ranges on the Wahl device, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105

Response to Arguments

Applicant's arguments filed on 8/17/10, with respect to claim 11 have been fully considered and are persuasive. The rejection of claim 11 has been withdrawn.

Applicant's arguments filed on 8/17/10, with respect to the remaining claims, have been fully considered but they are not persuasive.

In response to Applicant's argument that Wahl doesn't mechanically agitating container (21) because the bottles are stationary when being filled and the vibrator (12) is not attached to the container, see the above rejection and the following. The claims don't define any structure requiring the vibrator to be attached to the container. The container is vibrated, even when stationary, because it is part of the base structure that the vibrator is attached to. Any vibration from the vibrator mechanism will impart vibrations through the base structure (no matter how small), into the conveyor and

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through the container (21). Since these structures are all connected together, one can reasonably conclude that vibrator (12) would cause vibrations throughout the entire structure.

In response to Applicant's argument that Ede doesn't disclose that the container may be tapped or vibrated, see above rejection and the following. The "and/or" clause in the claim infers that only one of the defined structures need to be met by the prior art (i.e., the hopper is tapped or the container is tapped). The Ede reference is used to show that it is well known to transfer powder by tapping, which is clearly pointed out in column 9, line 25 of the disclosure.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited prior art of record pertains to various powder filling devices, similar to Applicant's device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy L. Maust whose telephone number is (571) 272-4891. The examiner can normally be reached on Mon. - Thur. 7:00-5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Timothy L Maust/
Primary Examiner
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9/2/10